

DEVIN DERHAM-BURK #104353  
CHAPTER 13 STANDING TRUSTEE  
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Trustee for Debtor(s)

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA - DIVISION 5

In re:	) Chapter 13
	) Case No. 18-51921 SLJ
	)
	) TRUSTEE'S OBJECTION TO
DORIA YVETTE FRIAS	) CONFIRMATION WITH CERTIFICATE OF
	) SERVICE
	)
	) 341 Meeting: Date: OCTOBER 10, 2018 @
	) 11:30 AM
	) Initial Confirmation Date: OCTOBER 24, 2018
	) Initial Confirmation Time: 1:25 PM
	) Place: 280 S. 1 <sup>st</sup> Street Room 3099
	) San Jose, CA
Debtor(s)	) Judge: Stephen L. Johnson

Devin Derham-Burk, Trustee in the above matter, objects to the Confirmation of this Plan for the following reasons:

1. The Debtor is not pledging all of her projected disposable income to pay unsecured creditors as required by 11 U.S.C. § 1325(b)(1)(B). It appears the Debtor omitted her support income from Form 122C-1. Furthermore, pursuant to the review of her pay advices provided her average income appears to \$4,065.02 per month. The Trustee requests the Debtor amend Form 122C-1 to list her current income.

- 1 2. Pursuant to the review of the pay advices provided it appears that the Debtors average  
2 monthly income is approximately \$4,065.02 not \$3,187.60 and her average monthly  
3 withholdings is approximately \$1,074.01 not \$871.85 as listed on Schedule I. The Debtor  
4 must amend Schedule I & J accordingly. Because of this inconsistency, the Trustee cannot  
5 determine whether the plan is feasible under 11 U.S.C. § 1325(a)(6). NOTE: It appears  
6 the debtor receives commission income that have been omitted.  
7
- 8 3. The Debtor is not applying all her projected disposable income to make payments to  
9 unsecured creditors under the plan as required by 11 U.S.C. §1325(b)(1)(B). The Debtor is  
10 proposing an unknown dividend to general unsecured creditors and their proposed monthly  
11 Chapter 13 plan payment is \$75.00. The Debtor's proposed plan is below median, therefore  
12 disposable income is the Debtor's current monthly income minus amount which are  
13 "reasonably necessary" to be expended for the maintenance or support of the Debtor. The  
14 Debtor's Schedule J lists \$971.75 in disposable income. The Trustee requests that the  
15 Debtor amend the Chapter 13 Plan to propose a dividend to general unsecured creditors in  
16 an amount commensurate with \$971.75 per month in disposable income.  
17
- 18 4. The Debtor has failed to comply with 11 U.S.C. § 521(a)(1)(B)(iv) because the Debtor  
19 has failed to provide the Trustee with a copy of her payment advice dated on or about  
20 August 24, 2018. If the Debtor cannot provide a copy of the payment advice, a  
21 declaration signed by the Debtor under penalty of perjury must be provided pursuant to  
22 General Order 32 of the United States Bankruptcy Court for the Northern District of  
23 California. Pursuant to the order, the declaration must set forth the reasons that the pay  
24 advice is unavailable and should state the Debtor's estimate of payments received within  
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1 the 60 days before the petition date and provide other evidence, if any, of the payments  
2 received.

- 3 5. In order to assist the Trustee in determining whether the disposable income test in 11 U.S.C.  
4 §1325(b)(1)(B) and/or the feasibility test in 11 U.S.C. §1325(a)(6) is met, the Trustee  
5 requests that the Debtor provide her with a copy of each federal and state income tax return  
6 and W-2 form required under applicable law with respect to each tax year of the Debtor's  
7 ending while the case is pending confirmation. The tax return shall be provided to her at  
8 the same time it is filed with the taxing authority.  
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13 Dated: October 4, 2018

/S/ Devin Derham-Burk

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Chapter 13 Trustee

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SAN JOSE, CA 95122

/S/ Clotilde Costa  
Office of Devin Derham-Burk, Trustee